

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MELISSA MCGURREN,)
)
)
Plaintiff,)
)
)
v.) No. 21-cv-06287
)
)
HUBBARD RADIO CHICAGO, LLC) Honorable Judge Ronald A. Guzman
)
)
Defendant.)

**DEFENDANT HUBBARD RADIO CHICAGO, LLC's
MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 12(b)(6)**

Defendant, Hubbard Radio Chicago, LLC (“Hubbard”), moves to dismiss the Complaint of Plaintiff, Melissa McGurren, pursuant to Federal Rule of Civil Procedure 12(b)(6), and in support states:

1. Plaintiff has brought an action for defamation *per se* based upon Defendant’s statement reacting to Plaintiff’s EEOC charge that Defendant “thoroughly investigated this matter previously. Suffice it to say that we do not agree with Melissa’s characterization of events” (the “Statement”).

2. Plaintiff has failed to state a claim for defamation *per se* because the Statement does not fall within any of the strictly defined categories of statements recognized to be defamatory *per se* under Illinois law.

3. Even if the Statement could be construed to fall within a category of statements recognized a defamatory *per se*, because the Statement is also reasonably capable of a non-defamatory *per se* construction, it *must* be given that non-defamatory *per se* construction pursuant to Illinois’ innocent construction rule, and Plaintiff’s claim must therefore be dismissed.

4. Alternatively, Plaintiff fails to state a claim for defamation *per se* because the Statement constitutes a non-actionable opinion.

WHEREFORE, for the reasons set forth herein and in its accompanying Memorandum of Law in Support of its motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), Defendant Hubbard Radio Chicago, LLC respectfully requests that this Court dismiss the Complaint of Plaintiff Melissa McGurren, with prejudice, and grant all other relief the Court deems appropriate.

Dated: December 23, 2021

Respectfully submitted,
HUBBARD RADIO CHICAGO, LLC

By: /s/ Steven P. Mandell
One of its attorneys

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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that a copy of the foregoing document has been served on December 23, 2021 via the Court's CM/ECF system on all counsel of record who have consented to electronic service.

/s/ Steven P. Mandell